

P-439/EM-88-480CLARIFYING ORDER

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Barbara Beerhalter	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Darrel L. Peterson	Commissioner

In the Matter of a Request by American Sharecom, Inc. to Change Tariff Language , Introduce Three WATS Options, Discontinue One WATS Option, Change the Direct Dial Rates and Introduce Directory Assistance Service

ISSUE DATE: March 2, 1989

DOCKET NO. P-439/EM-88-480

ORDER CLARIFYING ORDER

PROCEDURAL HISTORY

On December 16, 1988, the Minnesota Public Utilities Commission (the Commission) issued its ORDER APPROVING RATE CHANGES, APPROVING NEW SERVICES, REQUIRING ELIMINATION OF GEOGRAPHIC DEAVERAGING AND REQUIRING REFUNDS in this matter. The Commission ordered the Minnesota Department of Public Service (Department or DPS) and American Sharecom, Inc. (the Company) to develop a refund plan for refunding with interest the additional revenue resulting from the difference between the Company's old rates and the new rates paid by customers prior to their approval on December 16, 1988.

On January 5, 1989, the Minnesota Department of Public Service (Department or DPS) filed a Petition for Reconsideration or Clarification of the December 16, 1988 Order. On the same date, American Sharecom, Inc. (the Company) filed a letter asking for reconsideration.

On January 12, 1989, the DPS filed comments on the Company's refund plan. The Company responded by letter dated January 19, 1989.

The Commission met on February 14, 1989 to consider this matter.

FINDINGS AND CONCLUSIONS

In its December 16, 1988 Order the Commission approved rate changes made and implemented by the Company without prior Commission approval. Some of the changes increased rates and some decreased rates. The Commission required the Company to refund with interest the additional revenue resulting from the difference between its old rates and the new rates which customers paid prior to their approval.

The Commission will clarify its Order to define the refund period. The Company changed its direct dial rates on

March 1, 1987, without Commission approval. Under Minn. Stat. § 237.60 (1988) a telephone company may increase its rates "effective 30 days after notice. . ." In this case, the Company gave notice of the rates changes on July 14, 1988. Therefore, the rates became effective, subject to investigation and Commission action, on August 14, 1988. The Commission approved the rates as filed on December 16, 1988. Therefore the Commission finds that the refund should be calculated for the period between March 1, 1987 and August 14, 1988, a period of approximately 16 months.

The Department and the Company disagree on the Commission's intent regarding the amount of refunds. The DPS argues that the Company should refund the total of the unapproved rate increases, \$17,186.72 plus interest at the average monthly prime rate.

The Company argues that the amount to be refunded should be the total of the unapproved rate increases minus the unauthorized rate decreases and the costs of administering the refund. The Company calculated the net change in revenue (deducting the total rate decrease from the total rate increase) to be \$9,400.00

The Company also estimated the cost of administering the refund to be \$2,000; thereby arriving at \$7,400.00 for the amount of refund.

The Commission will further clarify its December 16, 1988 Order. In that Order, the Commission found that the Company's failure to file a timely rate change petition was inadvertent; the Commission reaffirms that finding here. The Commission believes that requiring the Company to refund the total amount of the unauthorized increases without regard to the unauthorized decrease the Company implemented during the same period is unduly harsh. The Commission finds that requiring the Company to refund the amount customers paid in unauthorized rate increases less the amount customers paid in unauthorized rate decreases is a reasonable balance of interests here. The Company's ratepayers as a whole are protected by having illegal increases refunded to them, but do not unfairly benefit from the illegally decreased rates they paid during the same period.

The Commission will not allow the Company to deduct the costs of administering the refund from the refund amount. The Commission's established policy is not to allow a Company to do so and the Commission sees no reason to change it. The Commission is committed to having reliable tariffs on file and demands consistent compliance with statutory filing requirements. The Company is being ordered to refund illegally collected rates; allowing that Company to deduct the cost of administering the refund would provide a disincentive to file tariff changes.

The Commission will allow the Company to distribute the refund by crediting each of its customers an equal amount plus interest. Interest shall be at the average monthly prime rate for the refund period.

ORDER

1. The Commission's December 16, 1988 Order in this matter is hereby clarified to require the Company to refund to its ratepayers \$9,400 with interest at the average monthly prime rate.
2. The Company shall distribute the refunds by crediting each of its customers an equal amount plus interest at the average monthly prime rate. The credits shall be implemented within the Company's next two billing cycles following this Order. Within 30 days of the completion of the refund process, the Company shall submit to the Commission an affidavit showing the actual amounts refunded to customers, the interest rate applied, and a copy of the customer notice.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen
Executive Secretary

(S E A L)